

sub-D2
10. (Twice amended) The insert earphone of claim 8, the rigid tube nipple and the housing being configured and arranged wherein the angle between a longitudinal axis of the rigid tube nipple and a vertical axis of the housing is obtuse, wherein the housing hangs approximately vertically along the side of a user's head when worn.

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16. (Twice amended) The insert earphone of claim 15, the tube nipple and the housing being configured and arranged wherein the angle between a longitudinal axis of the tube nipple and a vertical axis of the housing is obtuse, wherein the housing hangs approximately vertically along the side of a user's head when worn.

REMARKS

Claims 1-23 remain pending in the above-identified application. Applicant acknowledges with appreciation the Examiner's allowance of claims 15-23, and the Examiner's statement that claims 1-14 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, second paragraph, set forth in the Office Action. Applicant has amended claims 1, 8, 10 and 16, and believes that the rejections of claims 1-14 have been overcome.

More specifically, claims 1-7 presently stand rejected under 35 U.S.C. 112, second paragraph. Regarding independent claim 1, lines 10 and 11, the Examiner states that the phrase "such that" renders the claim indefinite. While Applicant believes that the claim is indeed clearly definite as is, Applicant has nevertheless amended claim 1 to replace the term "such that" at lines 10 and 11 with the word "wherein." Applicant also noticed similar use of the term "such that" in

claims 10 and 16, and has amended those claims similarly to claim 1. Accordingly, Applicant respectfully submits that the rejection of claims 1-7, and any potential rejection of claims 10 and 16, has been overcome.

In addition, claims 8-14 presently stand rejected under 35 U.S.C. 112, second paragraph. Regarding independent claim 8, line 13, the Examiner states that it is unclear as to whether the applicant is claiming "the TDH standard" or not, as part of the invention. While Applicant believes that the claim is indeed clearly definite as is, Applicant has nevertheless amended claim 8 so that it now recites an earphone that provides "a response that is approximately 0 dB relative to a *response* of the TDH-39 standard at at least one of 6 and 8 khz." Accordingly, it should be clear that Applicant is not claiming the TDH-39 standard per se. Applicant respectfully submits that the rejection of claims 8-14 has been overcome.

Applicant attaches hereto as Appendix A, copies of the claims with underlining and bracketing to specifically show the amendments made.

Conclusion

Based on at least the foregoing, Applicant believes that all claims 1-23 are in condition for allowance. If the Examiner disagrees, Applicant respectfully requests a phone interview, and requests that the Examiner telephone the undersigned at 312-775-8000.

Applicant encloses herewith a Request for a One-Month Extension of Time, which authorizes that the associated fee be charged to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017. In addition, Applicant hereby authorizes the Commissioner to charge any other fees required by this submission to the same deposit account.

A Notice of Allowance is courteously solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. Winslade", written over a horizontal line.

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Date: February 21, 2003

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APPENDIX A

1. (Thrice amended) An insert earphone comprising:

a housing;

a receiver located in the housing and having an output port, the receiver for electrically coupling with an audio signal source;

a flexible eartip for acoustic sealing with an ear canal of a user; and

a tube nipple providing an acoustic pathway through at least one wall of the housing and having a first end and a second end, the first end being located within the housing and being acoustically coupled to the output port of the receiver and the second end being located externally to the housing and being acoustically coupled to the flexible eartip, the tube nipple and housing being configured and arranged [such that] wherein the angle between a longitudinal axis of the tube nipple and a vertical axis of the housing is obtuse, [such that] wherein the housing hangs approximately vertically along the side of a user's head when worn.

8. (Thrice amended) An insert earphone comprising:

a housing;

a receiver located in the housing and having an output port, the receiver for electrically coupling with an audio signal source;

a flexible eartip for acoustic sealing with an ear canal of a user, the flexible eartip having a foam eartip portion and a flexible tube portion; and

a rigid tube nipple providing an acoustic pathway through at least one wall of the

housing and having a first end and a second end, the first end of the rigid tube nipple being located within the housing and being acoustically coupled to the output port of the receiver and the second end of the rigid tube nipple being located externally to the housing and being acoustically coupled to the flexible tube portion of the flexible eartip;

wherein the earphone providing a response that is approximately 0 dB relative to a response of the TDH-39 standard at at least one of 6 and 8 khz.

10. (Twice amended) The insert earphone of claim 8, [wherein] the rigid tube nipple and the housing [are] being configured and arranged [such that] wherein the angle between a longitudinal axis of the rigid tube nipple and a vertical axis of the housing is obtuse, [such that] wherein the housing hangs approximately vertically along the side of a user's head when worn.

16. (Twice amended) The insert earphone of claim 15, [wherein] the tube nipple and the housing [are] being configured and arranged [such that] wherein the angle between a longitudinal axis of the tube nipple and a vertical axis of the housing is obtuse, [such that] wherein the housing hangs approximately vertically along the side of a user's head when worn.